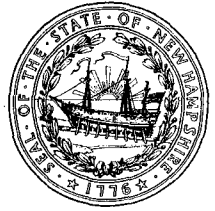




The State of New Hampshire
Department of Environmental Services

Michael P. Nolin
Commissioner



**LETTER OF DEFICIENCY
WET 2005-05**

March 28, 2005

AJD Construction, Inc.
Andrew Demetriou
335 Harrison St
Manchester, NH 03104

RE: DES Wetlands File #2005-00079 126 Colby Rd, Weare

Dear Mr. Demetriou:

On January 20, 2005 personnel from the Department of Environmental Services ("DES") conducted an inspection of the above referenced property, more specifically referenced on Town of Weare Tax Map 412 as Lot 168 (the "Property") of which you were the previous owner and developer. The purpose of the inspection was to determine compliance with RSA 482-A and NH Code of Admin. Rules Wt 100-700.

During the inspection and subsequent investigation it was determined that a wetland, which historically existed on the northern end of the Property, had been highly disturbed as a result of lot development. The following deficiencies were documented:

- a. A driveway had been constructed on the western side of the property through the wetland without a permit.
- b. A potential alternative exists on the eastern side of the property for the construction of a driveway without impacting wetlands.
- c. The wetland to the east of the driveway was been and/or graded and piles of rocks and other debris were placed where the wetland once existed.
- d. The water which outlets from the Colby Road culvert was redirected down a trench, dug from the outlet of the culvert, southwest toward the driveway, and south down along the east side of the driveway.
- e. A culvert was installed at the southern end of the trench to direct water under the driveway and into a wetland.
- f. The foundation of a garage had been poured in or immediately adjacent to the wetlands

A plan submitted by AJD Construction, Inc. showing the existing locations of the structures and wetlands on the Property was received by DES on February 28, 2005. The plan showed that the northwestern corner of the garage infringed on the pre-existing wetland.

During a meeting on March 17, 2005 including you, Mr. Johnston, Attorney Sullivan, and DES personnel, the following was agreed to:

1. An "after-the-fact" application would be submitted to DES to retain the fill for the driveway and garage. The application for the driveway would include plans for restoration of the remaining wetlands.
2. The restoration plans would be designed by Art Siciliano.
3. If not permitted, the driveway would have to be removed and the restoration plan would require revisions to reflect the decision.
4. The garage may remain in its current location on the basis that cooperation and timely progress towards compliance continues.

In response, you are requested to take the following actions:

1. Within 45 days of receipt of this Letter of Deficiency, submit a complete "after-the-fact" application (Standard Dredge and Fill Application) to DES to retain a portion of the fill for the driveway and the garage. The application shall provide documentation justifying the need to retain the driveway in its existing location. Include plans for restoring the wetlands outside the boundaries of the driveway and garage. Have the plan prepared by Art Siciliano or another consultant approved by DES and submit the following with the plan:

- a. A plan with dimensions, drawn to scale, showing:

1. Existing conditions, with wetland boundaries as previously delineated by Peter Schauer;
2. Proposed conditions after reestablishing the jurisdictional areas;

- b. A detailed description of the proposed methods of erosion control (silt fence, hay bales, etc) and stabilization of the restoration area;

- c. A detailed description of the proposed planting plan for the stabilization and revegetation of the restoration area and control of invasive species such as purple loosestrife (*Lythrum salicaria*) and common reed (*Phragmites australis*);

- d. A description of the proposed construction sequence and methods for accomplishing restoration and anticipated restoration compliance date.
 - e. The dates of when at least two monitoring progress reports will be submitted to DES, documenting the impact area over two successive growing seasons following completion of the restoration project. A description of the method of documenting at least 75% survival of all vegetation planted during the restoration project and a plan of action to correct any deficiencies.
2. Submit a letter of authorization from the current owners of the Property, Stephen and Cynthia Johnston, authorizing you to act on their behalf and granting permission for you to enter their property to perform restoration.
 3. Retain Art Siciliano, or another consultant approved by DES, to supervise the implementation of the restoration plan and to submit the restoration progress reports.
 4. Implement the restoration plan only after receiving written approval and as conditioned by DES.

RSA 482-A, the New Hampshire Wetlands law, was enacted to protect and preserve wetlands and surface waters from unregulated despoliation. Prior to dredging, filling, or construction in and adjacent to wetlands or surface waters, an individual is required to obtain a permit. If work is done without a permit, this is considered a violation of RSA 482-A. Failure to respond to this Letter of Deficiency in a timely and complete manner may be construed as noncompliance by the receiving party.

DES personnel may conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statute and rules.

Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-A will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property.

All documents submitted in response to this Letter of Deficiency should be addressed as follows:

Stacey Herbold, Compliance Specialist
Wetlands Bureau
Department of Environmental Services
29 Hazen Drive
PO Box 95
Concord, NH 03302-0095

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Should you have any questions regarding this letter, or wish to arrange a meeting, please contact Stacey Herbold at (603) 271-4064.

Sincerely,

COPY
Stacey Herbold for

Collis G. Adams, CWS
Administrator
Wetlands Bureau

CERTIFIED MAIL 7004 0750 0003 0561 8248

cc: Rene Pelletier, Manager, Land Resources Management Program
Gretchen R. Hamel, Administrator, DES Legal Unit ✓
Weare Conservation Commission
Town of Weare
USACOE
Stephen & Cynthia Johnston, property owners
Andrew H. Sullivan, Attorney at Law